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Stat. 1135), and the Omnibus Consolidated Appropriations Act, 2000 (Public Law 106-113, 113, Stat. 1501), the Secretary of Agriculture will make disaster payments available to certain producers who have incurred losses in quantity or quality of their crops due to disasters. Producers will be able to receive benefits under this part for losses to eligible 1999 crops as determined by the Secretary. Producers cannot receive compensation under this part and another part for the same loss except as provided for in §1478.6, and except as allowed by the Deputy Administrator who shall resolve any such conflicts.

§ 1478.2 Administration.

(a) The program will be administered under the general supervision of the Executive Vice President, Commodity Credit Corporation (CCC), and shall be carried out in the field by State and county Farm Service Agency (FSA) committees.

(b) State and county FSA committees and representatives do not have the authority to modify or waive any of the provisions of this part.

(c) The State FSA committee shall take any action required by this part that has not been taken by a county FSA committee. The State FSA committee shall also:

(1) Correct or require a county FSA committee to correct any action taken by such county FSA committee that is not in accordance with this part; and

(2) Require a county FSA committee to withhold taking or reverse any action that is not in accordance with this part.

(d) No delegation in this part to a State or county FSA committee shall prevent the Deputy Administrator from determining any question arising under the program or from reversing or modifying any determination made by a State or county FSA committee.

(e) The Deputy Administrator may authorize the State and county committees to waive or modify deadlines or other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect the operation of the program or when, in his or her discretion, it is determined that an exception should be

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allowed to provide for a more equitable distribution of benefits consistent with the goals of the program provided for in this part.

§ 1478.3 Definitions.

The definitions in this section shall be applicable for all purposes of administering the 1999 Crop Disaster Program provided for in this part.

Actual production means the total quantity of the crop appraised, harvested or that could have been harvested as determined by the county or State FSA committee in accordance with instructions issued by the Deputy Administrator.

Additional coverage means with respect to insurance plans of crop insurance providing a level of coverage equal to or greater than 65 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC.

Administrative fee means an amount the producer must pay for catastrophic risk protection, limited, and additional coverage crop insurance policies for each crop and crop year.

Appraised production means production determined by FSA, RMA, a company reinsured by FCIC, or other appraiser acceptable to CCC, that was unharvested but which was determined to reflect the crop's yield potential at the time of appraisal.

Approved yield means the amount of production per acre, computed in accordance with FCIC's Actual Production History Program (7 CFR part 400, subpart G) or for crops not included under 7 CFR part 400, subpart G, the yield used to determine the guarantee. For crops covered under the Non-insured Crop Disaster Assistance program, the approved yield is established according to part 1437 of this title. Only the approved yields based on production evidence submitted to the Agency prior to the 2000 Act will be used for purposes of the 1999 CDP.

Aquaculture means the reproduction and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching (except private ocean ranching of Pacific salmon for profit in those

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States where such ranching is prohibited by law).

Aquaculture facility means any land or structure including, but not limited to, a laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture.

Aquacultural species means aquacultural species as defined in part 1437 of this chapter.

Catastrophic risk protection means the minimum level of coverage offered by FCIC.

Catastrophic Risk Protection Endorsement means the relevant part of the Federal crop insurance policy that contains provisions of insurance that are specific to catastrophic risk protection.

CCC means the Commodity Credit Corporation.

Control county means: for a producer with farming interests in only one county, the county FSA office in which the producer's farm(s) is administratively located; for a producer with farming interests that are administratively located in more than one county FSA office, the county FSA office designated by FSA to control the payments received by the producer.

County committee means the local FSA county committee.

Crop insurance means an insurance policy reinsured by the Federal Crop Insurance Corporation under the provisions of the Federal Crop Insurance Act, as amended.

Crop year means: for insured and uninsured crops, the crop year as defined according to the applicable crop insurance policy; and for noninsurable crops, the year harvest normally begins for the crop, except the crop year for all aquacultural species and nursery crops shall mean the period from October 1 through the following September 30, and the crop year for purposes of calculating honey and tree losses shall be the period running from January 1 through the following December 31.

Cropland means cropland as defined in part 718 of this title.

Deputy Administrator means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA), or a designee.

Disaster means damaging weather, including drought, excessive moisture, hail, earthquake, freeze, tornado, hurricane, typhoon, volcano, excessive wind, excessive heat, or any combination thereof; and shall also include a related condition and all eligible loss conditions, excluding price risk for 1999 crop losses, as determined by the crop insurance policy, if RMA has made an eligible loss determination.

Double-cropped means a condition in which a subsequent crop of a different commodity is planted on the same acreage as the first crop within the same crop year if the county committee determines both crops were or could have been carried to harvest.

Eligible crop means a 1999-crop agricultural commodity commercially produced for food or fiber; floriculture, ornamental nursery, Christmas tree, turf grass sod, seed and industrial crops including tobacco; and aquaculture including ornamental fish. Losses of livestock and livestock related losses are not compensable under this part but may, depending on the circumstances be compensable under part 1439 of this chapter.

End use means the purpose for which the harvested crop is used, such as fresh, processed or juice.

Entity means any legal organization of any kind, including, but not limited to, corporations, trusts and partnerships.

Expected market price (price election) means the price per unit of production (or other basis as determined by FCIC) anticipated during the period the insured crop normally is marketed by producers. This price will be set by FCIC before the sales closing date for the crop. The expected market price may be less than the actual price paid by buyers if such price typically includes remuneration for significant amounts of post-production expenses such as conditioning, culling, sorting, packing, etc.

Expected production means, for an agricultural unit, the historic yield multiplied by the number of planted or prevented acres of the crop for the unit.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation within USDA.

Final planting date means the date established by RMA for insured and uninsured crops by which the crop must be initially planted in order to be insured for the full production guarantee or amount of insurance per acre. For non-insurable crops, the final planting date is the end of the planting period for the crop as determined by CCC.

Flood prevention means with respect to aquacultural species, placing the aquacultural facility in an area not prone to flood; in the case of raceways, providing devices or structures designed for the control of water level; and for nursery crops, placing containerized stock in a raised area above expected flood level and providing draining facilities, such as drainage ditches or tile, gravel, cinder or sand base.

FSA means the Farm Service Agency.

Good nursery growing practices means utilizing flood prevention, growing media, fertilization to obtain expected production results, irrigation, insect and disease control, weed, rodent and wildlife control, and over winterization storage facilities.

Growing media means:

(1) For aquacultural species, media that provides nutrients necessary for the production of the aquacultural species and protects the aquacultural species from harmful species or chemicals; and

(2) For nursery crops, media designed to prevent "root rot" and other media-related problems through a well-drained media with a minimum 20 percent air pore space and pH adjustment for the type of plant produced.

Harvested means: For insured and uninsured crops, harvested as defined according to the applicable crop insurance policy; for noninsurable single harvest crops, that a crop has been removed from the field, either by hand or mechanically, or by grazing of livestock; for noninsurable crops with potential multiple harvests in one year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least one mature crop from the field; and for mechanically harvested noninsurable crops, that the crop has been removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether re-

moved from the field or not. Grazed land will not be considered harvested for the purpose of determining an unharvested or prevented planting payment factor.

Historic yield means, for a unit, the higher of the county average yield or the producer's approved yield.

Individual stand means, with respect to trees, an area of eligible trees that are tended by an eligible producer as a single operation, whether or not the trees are planted in the same field or similar location, as determined by the county committee. Eligible trees not in the same field or similar location may be considered to be separate individual stands if county committee determines that there are significantly differing levels of loss susceptibility.

Insurance is available means when crop information is contained in RMA's county actuarial documents for a particular crop and a policy can be obtained through the RMA system, except if the Group Risk Plan of crop insurance was the only plan of insurance available for the crop in the county in the 1999 crop year, insurance is considered not available for that crop.

Insured crops means those crops covered by crop insurance pursuant to 7 CFR chapter IV and for which the producer purchased either the catastrophic or buy-up level of crop insurance so available.

Limited coverage means plans of crop insurance offering coverage that is equal to or greater than 50 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC, but less than 65 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC.

Maximum loss level means the maximum level of crop loss in the county, expressed in either a percent of loss or yield per acre, based on other losses in the county for the same crop as determined by the county committee in accordance with instructions issued by the Deputy Administrator.

Multi-use crop means a crop intended for more than one end use during the calendar year such as grass harvested for seed, hay, and/or grazing.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

Noninsurable crops means those crops for which crop insurance was not available.

Normal mortality means the percentage of damaged or dead trees in the individual stand or the percentage of dead aquacultural species that would normally occur during the crop year.

Operator means operator as defined in part 718 of this title.

Pass-through funds means revenue that goes through, but does not remain in, a person's account, such as money collected by an auction house for the sale of livestock that is subsequently paid to the sellers of the livestock, less a commission withheld by the auction house.

Person means person as defined in part 1400 of this chapter, and all rules with respect to the determination of a person found in that part shall be applicable to this part. However, the determinations made in this part in accordance with 7 CFR part 1400, subpart B, Person Determinations, shall also take into account any affiliation with any entity in which an individual or entity has an interest, irrespective of whether or not such entities are considered to be engaged in farming.

Planted acreage means land in which seed, plants, or trees have been placed, appropriate for the crop and planting method, at a correct depth, into a seedbed that has been properly prepared for the planting method and production practice normal to the area as determined by the county committee.

Producer means producer as defined in part 718 of this title.

Related condition means with respect to disaster, a condition related to a disaster that causes deterioration of a crop such as insect infestation, plant disease, or aflatoxin that is accelerated or exacerbated naturally as a result of damaging weather occurring prior to or during harvest as determined in accordance with instructions issued by the Deputy Administrator.

Reliable production records means evidence provided by the producer that is used to substantiate the amount of production reported when verifiable

records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, that are determined acceptable by the county committee.

Repeat crop means with respect to a producer's production, a commodity that is planted or prevented from being planted in more than one planting period on the same acreage in the same crop year.

RMA means the Risk Management Agency.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use, except for crops with intended use of grain, but harvested as silage, ensilage, cabbage, hay, cracked, rolled, or crimped.

Secondary use value means the value determined by multiplying the quantity of secondary use times the CCC-established price for this use.

Secretary means the Secretary of the United States Department of Agriculture.

Trees means maple trees for syrup, or orchard trees grown for commercial production of fruits or nuts.

Uninsured crops means those crops for which Federal crop insurance was available, but the producer did not purchase insurance.

Unit means, unless otherwise determined by the Deputy Administrator, basic unit as described in part 457 of this title which, for ornamental nursery production, shall include all eligible plant species and sizes.

Unit of measure means:

(1) For all insured and uninsured crops, the FCIC-established unit of measure;

(2) For aquacultural species, a standard unit of measure such as gallons, pounds, inches or pieces, established by the State committee for all aquacultural species or varieties;

(3) For Christmas trees, a plant or tree;

(4) For turfgrass sod, a square yard;

(5) For maple sap, a gallon; and

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(6) For all other crops, the smallest unit of measure that lends itself to the greatest level of accuracy with minimal use of fractions, as determined by the State committee.

United States means all 50 States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands and Guam.

USDA means United States Department of Agriculture.

Value loss crop will have the meaning assigned in part 1437 of this chapter.

Verifiable production records means evidence that is used to substantiate the amount of production reported and that can be verified by CCC through an independent source.

§ 1478.4 Producer eligibility.

(a) Producers in the United States will be eligible to receive disaster benefits under this part only if they have suffered 1999 crop losses of eligible crops as a result of a disaster as further specified in this part.

(b) Payments may be made for losses suffered by an eligible producer who is now deceased or is a dissolved entity if a representative who currently has authority to enter into a contract for the producer signs the application for payment. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment.

(c) As a condition to receive benefits under this part, a producer must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of 7 CFR part 12, for the 1999 crop year and must not otherwise be barred from receiving benefits under part 12 or any other provision of law.

(d) Except as otherwise required by law, the provisions of paragraph (c) of this section shall not apply to producers receiving benefits under this part for value loss crops unless otherwise determined by the Deputy Administrator.

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§ 1478.5 Time for filing application.

Applications for benefits under the 1999 Crop Disaster Program must be filed before the close of business on February 25, 2000, or such other date that may be announced by the Deputy Administrator, in the county FSA office serving the county where the producer's farm is located for administrative purposes.

§ 1478.6 Limitations on payments and other benefits.

(a) A producer may receive disaster benefits under this part on 1999 crop year losses only.

(b) Payments will not be made under this part for grazing losses. Further, the Deputy Administrator may divide and classify crops based on loss susceptibility, yield, and other factors.

(c) No person shall receive more than a total of \$80,000 in disaster benefits under this part.

(d) No person shall receive disaster benefits under this part in an amount that exceeds the value of the expected production for the relevant period as determined by CCC.

(e) A person who has a gross revenue in excess of \$2.5 million for the 1998 tax year shall not be eligible to receive disaster benefits under this part. Gross revenue includes the total income and total gross receipts of the person, before any reductions. Gross revenue shall not be adjusted, amended, discounted, netted or modified for any reason. No deductions for costs, expenses or pass-through funds will be deducted from any calculation of gross revenue. For purposes of making this determination, gross revenue means the total gross receipts received from farming, ranching and forestry operations if the person receives more than 50 percent of such person's gross income from farming or ranching; or the total gross receipts received from all sources if the person receives 50 percent or less of such person's gross receipts from farming, ranching and forestry.

(f) In the event the total amount of applications for disaster benefits under this part exceeds the available funds,